

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No. 1:16-cv-03088-
v.)	ELR
)	
STATE OF GEORGIA,)	
)	
Defendant.)	
)	

JOINT STATUS REPORT - DECEMBER 1, 2022

NOW COME Plaintiff United States of America (“United States”) and Defendant State of Georgia (“State”), pursuant to the Court’s September 2, 2022 Order [Doc. 261] (the “September 2 Order”), and file this Joint Status Report outlining the parties’ progress in discovery and identifying outstanding fact discovery issues.

This Court is aware of the parties’ claims and defenses. In brief, the United States alleges that the State, by delivering educational services to students with disabilities in segregated settings, through the Georgia Network for Educational and Therapeutic Support (“GNETS”) Program, violates Title II of the Americans with

Disabilities Act. The State maintains, among other defenses, that it cannot provide the relief the United States seeks because Georgia’s local school districts, through their IEP teams, determine whether a student requires GNETS Program services and because the school districts—and not the State—operate the regional GNETS programs (of which no individual employed by the State is part).

I. Current Status

This Court’s September 2 Order extended the period for fact discovery through and including January 31, 2023, and set deadlines for a period of expert discovery extending from February 15, 2023 through June 14, 2023. [Doc. 261 at 1-2]. Currently, the parties are working towards meeting the January 31, 2023 fact discovery deadline. The parties continue to take substantial discovery, including producing and reviewing electronically stored information (“ESI”), issuing and responding to interrogatory responses and document requests, and conducting site visits and depositions. The parties have been able to work collaboratively on the number, timing, and scheduling of depositions, and time frame for prompt production of documents and ESI, with the exception of a few issues called out below in the respective portions of this joint report. The parties will inform the Court should resolution of any issue require the Court’s assistance.

II. Steps Taken by the Parties to Complete Discovery

Prior status reports provide extensive detail regarding previous discovery efforts. Below, the parties describe their respective discovery activities since the June 10, 2022 status report [Doc. No. 209].

A. Steps Taken by the United States

The United States has worked diligently to take and respond to discovery with the goal of bringing this matter to trial expeditiously. It details its most recent efforts below.

1. Site Inspections

In addition to the site inspections reported previously, the United States has completed 13 additional site inspections since June 10, 2022. The United States expects to conclude its remaining site inspections prior to the January 31, 2023 fact discovery deadline.

2. Production and Review of ESI

The United States has continued to review and assess the State's extensive productions of ESI and believes that most issues regarding the production can be resolved cooperatively. The United States, however, previews below one issue relating to document production.

On August 12, 2022, the United States served further document requests and

interrogatories seeking, among other things, both: 1) a “refresh” of the data previously provided by the State regarding GNETS attendance and referrals and 2) data regarding the provision of behavioral health services maintained by the Departments of Community Health and of Behavioral Health and Developmental Disability. The State has produced a portion, but not all, of this data. The United States learned this week that, among other issues, the relevant agencies have not yet sent the necessary FERPA notices, which require a four-week period prior to disclosure. Thus, the United States may not have this critical information in hand until mid to late January 2023 or beyond. The delayed production of this information may hinder the United States’ experts in meeting the deadlines for completion of their reports. The United States seeks to avoid such delay and will advise the Court only if additional time should be required.

3. Depositions

The United States has taken some 20 depositions since June 10, 2022. The United States anticipates that it will complete its depositions within the January 31, 2023 fact discovery deadline. The United States notes, however, that it is in discussions with the State concerning its objections to the deposition of Matthew Jones, the Chief of Staff for the Georgia Department of Education, noticed for December 13, 2022. Should the parties be unable to resolve this issue, the United

States will engage in a good faith conference regarding these issues, and seek the Court's intervention, as necessary.

B. Steps Taken by the State of Georgia

Since the last joint-status report in June 2022, the State has produced 11,354 documents to the United States. This includes 11,327 additional documents produced in response to the United States' previous discovery requests. The State has also provided responses and objections to the United States' Second Set of Interrogatories and Third Set of Requests for Production of Documents. The State has produced documents responsive to the Third Set of Requests for Production of Documents and is actively working on providing the remaining responsive documents which are sourced from multiple government agencies.

The State has also attended numerous depositions and site visits. This includes defending approximately thirteen (13) depositions of current or former State employees, attending and cross noticing eight (8) depositions of GNETS directors, and attending approximately seven (7) days of site tours. Throughout the deposition and site-visit process, the State has worked closely with the United States to allocate deposition time and accommodate scheduling changes.

Lastly, the parties are working through a potential discovery dispute regarding the United States' intent to depose Matthew Jones, the Chief of Staff for Georgia

State School Superintendent Richard Woods. The State sent a letter to the United States on November 28 outlining its objections and is awaiting the United States' response.

CONCLUSION

The parties will work diligently and cooperatively to meet the January 31, 2023 fact discovery deadline.

December 1, 2022

Respectfully submitted,

RYAN K. BUCHANAN
United States Attorney
Northern District of Georgia

/s/ Aileen Bell Hughes
AILEEN BELL HUGHES
GA Bar Number: 375505
Assistant United States Attorney
United States Department of Justice
Richard B. Russell Federal Building
75 Ted Turner Dr. SW, Suite 600
Atlanta, GA 30303-3309
(404) 581.6000
aileen.bell.hughes@usdoj.gov

KRISTEN CLARKE
Assistant Attorney General

SHAHEENA A. SIMONS
Chief

RENEE M. WOHLNHAUS
KELLY GARDNER WOMACK
Deputy Chiefs

ANDREA E. HAMILTON
Special Litigation Counsel

VICTORIA M. LILL
CLAIRE D. CHEVRIER
FRANCES S. COHEN
PATRICK HOLKINS
LAURA C. TAYLOE
MICHELLE L. TUCKER
Trial Attorneys
Educational Opportunities Section
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 353-5249

Attorneys for the United States

s/ Josh Belinfante

Josh Belinfante

Georgia Bar No. 047399

jbelinfante@robbinsfirm.com

Melanie Johnson

Georgia Bar No. 466756

mjohnson@robbinsfirm.com

Danielle Hernandez

Georgia Bar No. 736830

dhernandez@robbinsfirm.com

Javier Pico Prats

Georgia Bar No. 664717

javier.picoprats@robbinsfirm.com

Edward Bedard

Georgia Bar No. 926148

ebedard@robbinsfirm.com

Robbins Alloy Belinfante Littlefield LLC

500 14th Street NW

Atlanta, GA 30318

Telephone: (678) 701-9381

Facsimile: (404) 856-3255

Alexa R. Ross

Georgia Bar No. 614986

alexaross@icloud.com

AlexaRossLaw, LLC

2657 Danforth Lane

Decatur, GA 30033

Special Assistant Attorneys General

Attorneys for Defendant

L.R. 7.1(D) CERTIFICATION

I certify that this Joint Status Report has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C). Specifically, this brief has been prepared using 14-pt Times New Roman Font.

/s/Aileen Bell Hughes
Aileen Bell Hughes

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the foregoing document with the Clerk of Court using the CM/ECF system, which automatically sent counsel of record e-mail notification of such filing.

This 1st day of December, 2022.

/s/ Aileen Bell Hughes
Aileen Bell Hughes